

Statement of Rep. Henry A. Waxman
Committee on Government Reform
Hearing on Marc Rich Pardon
March 1, 2001

Three weeks ago, at the Committee's first hearing on the Marc Rich pardon, I criticized President Clinton's actions. I said the Rich pardon was bad precedent, an end run around the judicial process, and appeared to set a double standard for the wealthy and powerful.

Almost immediately the phones in my office lit up. Oddly, many of the calls were from anti-Clinton viewers accusing me of being an apologist for the President. But I also received many calls from Democrats demanding that I explain why I wasn't supporting President Clinton's actions.

That's where I want to start today. I want to particularly direct my comments to Democrats around our country who are puzzled why congressional Democrats aren't fiercely defending President Clinton.

If a Republican President had presided over a pardon process that resembled the chaotic mess that seemingly characterized the final days of the Clinton Administration, I would be outraged and would criticize it. Issuing pardons is one of the most profound powers given to the President. At a minimum, the decision-making process must be careful and above reproach. It's clear that President Clinton's efforts weren't.

President Clinton had two equally important responsibilities in deciding whether to grant pardons. First, the President could not grant a pardon in exchange for any personal benefit. A quid pro quo obviously would break the law. And although the President's pardon power is absolute, it's not above the law.

To this point, I have seen no evidence that the President broke any law. I've seen a lot of evidence of bad judgment, but not illegality.

But given the extraordinary circumstances of the Rich pardon, it's important that the U.S. Attorney's office in New York fully, quickly, and impartially investigate this issue. The U.S. Attorney is doing that, and its investigation should resolve any question of illegality for the American people.

President Clinton's second fundamental obligation is just as important as the first – he must protect the American public's trust by exercising sound judgment.

This isn't a legal standard. It's a subjective measure, and President Clinton failed to meet it. The combination of revelations, ranging from the Marc Rich and New Square pardons to the role Hugh Rodham played in the pardon process, are disturbing and raise serious questions about the President's judgment.

And if anyone should have been sensitive to this, it was the President. He has been subject to a constant barrage of attacks and scrutiny, some unquestionably justified but most reckless and unfair. He knows whatever he does will be questioned—even if he didn't actually do it.

During the battle over impeachment, I repeatedly noted a distinction between private conduct and official activities. The President's relationship with a White House intern was a personal failing and a betrayal to his family. Everything that sprang from that scandal—including his false testimony under oath—came from that personal failure.

In this case, however, Mr. Clinton's failure to exercise sound judgment affected one of the most important duties of the Presidency. Bad judgment is obviously not impeachable. But the failures in the pardon process should embarrass every Democrat and every American. It is a shameful lapse that must be acknowledged, because to ignore it would betray basic principles of justice that Democrats believe in.

I know that many Democrats fear that criticizing President Clinton's actions will somehow negate all the accomplishments of his Administration. I disagree. President Clinton's disciplined and masterful handling of our nation's economy, and his leadership on a score of health and environmental issues, will not be forgotten.

Democrats—and I hope even some Republicans—should be proud of the progress we made and the immense talents President Clinton brought to the White House. Those truths remain despite the President's other failings.

But when he makes a serious mistake, as I think he did in this case, Democrats must be willing to say so.

I hope that helps explain to my Democratic callers why I've been so critical of the President's conduct.

But I also want to address the anti-Clinton callers who attack me for being an apologist for the President and the First Lady. At the same time that I believe that President Clinton made grave errors, I also believe that there's clearly a double standard that's applied to him. Pointing out that there's a double standard isn't an attempt to excuse what's happened—it's just the facts.

One major reason we're holding this hearing is to investigate whether President Clinton pardoned Marc Rich in exchange for contributions. Republicans are saying that an investigation is essential because of the suspicious circumstances that Marc Rich's former wife gave hundreds of thousands of dollars to the DNC and the Clinton library.

Well, compare this to the pardon that President Bush gave in 1989 to Armand Hammer, the former head of Occidental Petroleum, who pled guilty to making illegal campaign contributions. According to news reports, Mr. Hammer gave over \$100,000 to the Republican Party and \$100,000 to the Bush-Quayle Inaugural Committee shortly before he received this

pardon.

The appearance of a quid pro quo is just as strong in the Hammer case as in the Rich case—if not stronger, since Mr. Hammer himself gave the contributions. But there was never an investigation of former President Bush.

The Committee has now opened a new front by investigating the involvement of the First Lady's brother in two of the last-minute pardons. Here again there is a parallel in the former Bush Administration. According to news reports, former President Bush's son, Jeb Bush, successfully lobbied his father's White House in 1990 for the release of an anti-Castro terrorist named Orlando Bosch.

But we aren't investigating former President Bush or his son, just former President Clinton and his brother-in-law.

If we're genuinely concerned about the undue influence of relatives on policy-makers, there are also lots of examples we could investigate in Congress. Rep. Tom DeLay is the majority whip. After his brother, Randy, became a lobbyist for Cemex, which is a Mexican cement company, Mr. DeLay asked the Commerce Department for special treatment for the company. Senator Ted Stevens's brother, Ben, lobbies for organizations that have been reported to have received millions of dollars in earmarked appropriations from Senator Stevens. And Scott Hatch, Senator Hatch's son, represents entities like the American Tort Reform Association, even though they have extensive interests before Senator Hatch's own committee.

I'm not impugning the actions of any of those individuals, and I don't question the integrity of any of their actions. But I don't believe this Committee should engage in selective indignation.

The Committee's pursuit of the Clinton library is another example of the double standard. In 1997, during the Committee's campaign finance investigation I asked to subpoena records from the Bush and Reagan libraries about potential fundraising abuses involving those administrations. But I was turned down. It seems we can pursue President Clinton's library, but not President Bush's or President Reagan's.

I also wanted to investigate the Jesse Helms Foundation. Senator Helm's foundation had reportedly received large contributions from foreign governments at the same time that the Senator was chairman of the Foreign Relations Committee. But again there was no inquiry.

As I say this, I have no doubt that my phone is again ringing off of the hook in my office with people criticizing me for having the temerity to point out these inconsistencies. But we need to keep perspective. American taxpayers have already spent over \$140 million investigating President Clinton. I realize that ridiculing the Clintons makes great entertainment for some, but this obsession with the Clintons isn't healthy. President Clinton is not going to be impeached again—and he's no longer the President.

At times, the feeding frenzy involving President Clinton is unfair. He is denounced as an individual bent on thwarting or stonewalling the Committee's investigation. But in fact, in this case he has taken the extraordinary step of waiving executive privilege—the President's constitutional prerogative—to allow his top advisors to testify.

And at other times, the frenzy displaces our sense of priorities. It is amazing that the news that President Clinton's brother, Roger, asked for pardons became the lead story in the country, even displacing the FBI spy scandal. After all, Roger Clinton was unsuccessful and there is no evidence to date that he received any payments for his efforts.

Mr. Chairman, I want to comment for the record on your insistence that Beth Dozoretz be required to assert the Fifth Amendment during today's hearing. Mrs. Dozoretz has already informed the Committee that given the U.S. Attorney's investigation in New York, she will not be able to participate in today's hearing. There is congressional precedent for requiring a witness to assert the Fifth Amendment. But I don't think it's constructive to call Mrs. Dozoretz before the Committee if the goal is to punish her for asserting a constitutional right and to create a media spectacle.

I also want to note my disappointment in the Committee's treatment of Peter Kadzik. Mr. Kadzik was informed a few days ago that he might be invited to today's hearing. The hearing conflicted with appointments he already had scheduled in California for today, and he informed the Committee he could not participate, but was willing to cooperate in any other way possible with us.

When Mr. Kadzik stepped off his plane yesterday in Los Angeles, he was greeted by a federal marshal, who served him with a subpoena requiring his presence today. So Mr. Kadzik had to cancel his meetings and immediately board another flight back here.

That all would have been necessary if Mr. Kadzik were an essential witness for today's hearing. But he's not. In fact, earlier this week, your staff told him that he wouldn't have to testify if I would agree to excuse Scooter Libby from today's hearing. Since Mr. Libby was Marc Rich's lawyer for more than ten years and helped develop the argument that was ultimately presented to the President as a justification for his pardon, we felt he should testify. I regret he has been placed so far down on the witness list that we won't hear from him for at least four hours and maybe even after nightfall.

Mr. Chairman, given the developments of the last few weeks, I think it's appropriate to have this hearing. Clearly, there is widespread interest in obtaining the views of today's witnesses. But I think we need to think twice before continuing with additional investigation. There's a criminal investigation going on in New York that can answer whether illegal conduct is involved. We could spend months investigating the details of all of President Clinton's pardons, but I seriously question whether it makes sense for us to conduct another redundant investigation.

I look forward to listening to today's witnesses.